Supreme Court, U.S.
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No. 01-1834

IN THE

SUPREME COURT OF THE UNITED STATES
October Term, 2001

ANDREW C. SCHIFFER,
Petitioner,

vs.

VILLAGE OF HASTINGS-ON-HUDSON, HASTINGS-ON-HUDSON POLICE DEPARTMENT, COUNTY OF WESTCHESTER, POLICE OFFICERS RICK WHITE ANDREW HAYDEN, WAYNE PIETROPOLO, DAVID DOSHIN, DISH, O'SULLIVAN, OTHERS as of yet unknown, included as John/Jane Does Numbered 1 to 10 individually,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS, SECOND CIRCUIT

SUPPLEMENTAL BRIEF OF PETITIONER

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Jul 5, 2002

5 pp

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SUPPLEMENTAL BRIEF OF PETITIONER

This supplemental brief "calling attention to new cases . . ." (*Rule* 15.8) is impelled by the Jun 26, 2002 express waiver of the respondents' "right to file a brief in opposition". Respondents confirmed that neither their counsel nor the Court needs to address any (since there is no) "perceived misstatement of fact or law in the petition that bears on what issues properly would be before the Court if certiorari were granted" (*Rule* 15.2) to help answer the issues since the Constitution mandates judgment only on the "actual case": *the* one and only "bedrock requirement". *Raines et al.* v. *Byrd, et al.*, 1997, 521 US 811, 818.

> As aptly stated by Judge Learned Hand in *Masses Publishing Co.* v. *Patten* (DC) 244 F 535, 540: "One may not counsel or advise [or sponsor] others to violate the law . . . [since doing so] cannot by any latitude of interpretation be a part of that public opinion which is the final source of government in a democratic state."
>
> *Dennis* v. *United States*, 1951, 341 US 494, 571-572.

Judges personify the justice system . . . so vital to its effective functioning. *Mazzei*, 81 NY2d 568, 571-572.

NEW CASES

On Jul 1, 2002, the NY Hon. US District Judge Jed Rakoff became the first federal trial judge to rule that federal death penalty is unconstitutional as "state-sponsored murder of innocent human beings" since death-row inmates are deprived of due-process

rights to protect against "undue risk" that innocent humans would be killed, not exonerated instead. Prosecutors planned to seek the death penalty upon conviction of drug dealers set for trial in New York on Sep 3, 2002 for killing a government informant.

On Jun 20, 2002, in *Atkins* v. *Virginia,* this Supreme Court ruled that a state executing mentally retarded is unconscionable since punishment is "excessive" and prohibited by Amend. 8 if not graduated and proportioned to the offense (*Weems* v. *United States,* 217 US 349, 367), that an excessiveness claim is judged by the currently prevailing standards of decency (*Trop* v. *Dulles,* 356 US 86, 100-101), and that proportionality review under such evolving standards should be informed by objective factors to the maximum possible extent (*Harmelin* v. *Michigan,* 501 US 957, 1000): the clearest and most reliable of which is legislation enacted by the nation's legislatures (*Penry* v. *Lynaugh,* 492 US 302, 331).

These cases ruled that death penalty is unconstitutional even when killing is by us normal, educated and sane humans and thus all the more so when killing is by the mentally retarded humans.

The Missouri Supreme Court temporarily halted the Jun 5, 2002 execution of juvenile offender Christopher Simmons, arguing that the decision in *Atkins,* when rendered, should apply to juveniles who, just like the mentally retarded, are also a group requiring special protection in the legal system.

SELF-EVIDENT ARGUMENT

Killings *end* the problems of the killed. Raping and/or beating *begin* the problems of the raped and/or beaten. This manifest reality of rule of law, order and government regulating life is *not equal* protection of laws for both the killer and the killed, the rapist and the raped, and the beater and the beaten. *Instead*, it is an *unequal* (*biased*) protection of laws *for* the killer, the rapist, and the beater *against* the killed, the raped and the beaten. What do you think?

Didn't *DeShaney* and *Schiffer* (case at bar) help make the rights of policemen (lawmen) and thus laymen to rape, beat and sponsor manifest crimes (violations of laws) the "*unalienable* [Creator-endowed] Rights [to] Life, Liberty, and the Pursuit of Happiness [from crimes]" their Constitutionally secured rights to enjoy?

The Constitution contemplates that, in addition to the objective evidence (*Harmelin, supra*), this Supreme Court will also bring its own judgment to bear by asking whether there is reason to agree or disagree with the judgment reached by the citizenry and its legislators. *Coker* v. *Georgia*, 433 US 584, 597.

Do the new cases inspire this Court's dormant *ethos* to use due process of law for *equal* protection of laws to establish Justice for All to help *prevent* (*not promote*) criminal[, civil and tort] wrongs against the innocents?

Are we all hostages to our very own home-grown laws and legal system that still impel our Courts of law to overlook the difference between human rights and human wrongs when they stop even manifestly lawless criminals from asking *why* our very own Judges *hurt*

both the violators (conspirators) and the violated by helping them enjoy crimes? Don't such laws make this Court revere illogical reasoning to help perpetuate (not learn from) experiences (mistakes), stay hostage to and thus still "forgive and forget" the past, legally?

Aren't the new cases further foolproof proof of the inevitability of our own justice system to catch up with the moral sensibilities of the international human rights standards and make such manifest history, history, before it makes us humans history, worldwide?

CONCLUSION

May it please the Court to not end due process of law for *equal* protection of the laws *until* a court: renders *the* judgment on the "actual case" that decides the fate of litigants and disposition of property (*Raines* and *Mazzei*), consecrates the "*unalienable* [Creator-endowed] Rights [to] Life, Liberty, and the Pursuit of Happiness [for the common good (not evil) of all]" (*Declaration of Independence*), Constitutionalizes lawfulness (*ethos*) that helps violators enjoying *conspiracy* (outlawed by *Dennis*) first cause and perpetuate lawlessness (*pathos*) and then abuse Judges as *honored* safe havens and the *dishonored* violated as *deprived* scapegoats under rule of law, order and government, worldwide?

Jul 5, 2002

Respectfully submitted,

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